

REMARKS

By the foregoing amendment, the specification has been amended to include reference to the PCT and the priority document claimed in the PCT in the instant specification in accordance with 35 USC §120.

In addition, applicant has amended the claims to remove the improper multiple dependent form thereby overcoming the previous objections to claims 4-23.

Applicants initially note that in the Office Action mailed December 27, 2007, the Office Action summary page, item 10, referring to the drawings, do not have a checkbox for either accepted or rejection by the Examiner.

However, in a telephone conversation with the Examiner on February 25, 2008, the Examiner orally indicated that the drawings filed September 30, 2004 are accepted and thus no objection has been made to the drawings.

Applicant notes that the Information Disclosure Statement previously filed included citation to German patent DE 9208593 and a copy of the German patent was provided with a Search Report in which it had been cited.

The Examiner has objected to the citation of this document as failing to comply with 37 C.F.R. §1.98(a)(3) because it does not include an independent concise explanation of the relevance. Of course, the DE reference is not in the English language, but in German.

Therefore, Applicant directs the Examiner's attention to MPEP §609.04(a)III which states "in relevant part" "where the information listed is not in the English language, but recited in a Search Report or other action by a foreign patent office in a counterpart application, the requirement for concise explanation of relevance can be satisfied by submitting an English-language version of the Search Report or action which indicates the degree of relevance found by the foreign office". Applicants again direct the Examiner's attention to the form PTO-1449 which includes a copy of the Search Report in which the DE reference in question was cited. Thus, it was error for the Examiner to have indicated that the requirement of Rule 98 has not

been satisfied according to the MPEP such provision of a foreign Search Report in which the DE reference was cited satisfies the requirements for a “concise explanation”.

However, notwithstanding the foregoing, Applicant has found a family member in the English language and is today filing a copy of that English language family member patent. Accordingly, Applicants respectfully submit that not only the DE patent should be considered, but also the English language counterpart should also be considered as satisfying the “concise explanation” requirement as set forth in MPEP §609.04(a)III.

Reconsideration of the previous grounds of rejection of claims 1 and 24 under 35 U.S.C. §102(b) allegedly as being anticipated by Natrass et al. (US Patent 3,961,655) is respectfully requested due to the following comments.

Although it is stated that Figs 2 and 8 of Natrass disclose a flexible material transfer device for transferring a load contained therein comprising a flexible inner liner (12),... a restraint (1) surrounding the inner liner. The presently claimed invention requires not only that the outer restraint surround the inner liner but that the inner liner be “integrated” to the outer fabric restraint “in a manner preventing the inner lining from collapsing”. Support for such limitation may be found in the original disclosure, for example, on page 2, third full paragraph, page 4, first full paragraph and page 5, first full paragraph of the specification.

In addition, the independent claims require that a window is sewn or thermally sealed to fabric restraint to make it possible to view the load within the inner liner even though surrounded by the outer fabric restraint. Support for such limitation can also be found in the same paragraph on page 4, first full paragraph of the application.

The claimed combination of elements is not found in the Natrass ‘655 disclosure and thus cannot possibly form the basis for an anticipatory rejection under 35 U.S.C. §102.

Reconsideration of the previous rejections of claim 2 under 35 U.S.C. §103 as being unpatentable over Natrass et al. discussed above in view of Martin (US Patent 3,312,337) is respectfully requested.

Applicants note in this paragraph that the Examiner concedes that Natrass does not disclose the limitation for the window for viewing the load and hence the previous rejection under 35 U.S.C. §102 cannot be maintained.

Reliance on the secondary reference to Martin, does not cure the deficiencies of Natrass et al. As noted above, independent claim 1 has been amended to not only contain a surrounding fabric restraint for inner liner 10, but integrating the inner line to fabric restraint assuring that the liner remains in place and prevents the liner from collapsing. Support for such limitation can be found in the original specification, for example, under the first full paragraph on page 5 thereof.

To the contrary, the package of Martin is directed to packaging frangible articles such as potato chips, light bulbs, Christmas tree ornaments, etc. See the first paragraph of Martin. In order to achieve such packaging, Martin proposes inner and outer containers wherein the inner container is heat shrinkable in order to collapse upon the packaged material and prevent their independent movement. See for example Martin, column 2, line 62, to column 3, line 18.

Martin clearly recognizes that the inner container 12 shrinks and becomes distorted while the outer container 11 remains unchanged in configuration. See column 3, lines 19-23. This is quite unlike the claimed invention in which the inner liner is integrated to the fabric restraint to ensure that the inner liner remains in place and prevents the liner from collapsing which is the antithesis of Martin. This proposed combination of Natrass et al. '655 with Martin still does not teach or make obvious the claimed invention.

Reconsideration of the previous rejection of claim 3 under 35 U.S.C. §103(a) as being unpatentable over Natrass et al. '655 discussed above in view of Natrass (US Patent 6,056,440) is respectfully requested.

It is noted in the discussion above that Natrass et al. '655 does not disclose all limitations as noted by the Examiner's concession that it does not teach the window. Thus it can not form a *prima facie* case of obviousness for claim 3.

In addition, Applicants respectfully dispute the Examiner's allegation that Natrass '440, especially Fig. 2, teaches forming the inner liner (100) from a plurality of patterns (120, 150, 140) as set forth in the Office Action.

As clearly set forth in Natrass '440, element 120 is a "membrane circumference" see column 4, lines 50-51. Element 140 is a "bottom support", see column 4, line 56 and element 150 is described as a "central section" see column 4, line 57. There is no teaching that these elements 120, 140 and 150 are part of a pattern which are thermally sewn and welded together, in fact, as 120 is a "membrane circumference" it does not even represent a separate element. Accordingly, the proposed statement of the rejection fails to establish a "*prima facie*" case of obviousness for claimed invention.

Having fully responded to the preceding Office Action, favorable reconsideration and withdrawal of all rejections and passage of the application to issue are respectfully requested.

Applicant believes no fee is due with this amendment. However, if a fee is due, please charge our Deposit Account No. 14-1437, under Order No. 8562.003.US0000 from which the undersigned is authorized to draw.

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Respectfully submitted,

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